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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 12-30 August 1991

STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the current session, the plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures;

(c) Implementation of resolution II;

(d) The Training Panel.

I. ORGANIZATION OF WORK

2. On 12 August 1991, on the recommendation of the General Committee, the plenary adopted a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. At the first meeting of the plenary on the Authority, held on 13 August 1991, the Chairman outlined the programme of work for the current session. The programme envisaged that the plenary would devote its first two meetings to the second reading of the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority and at the subsequent two meetings, during the second week, it would then resume the examination of the background paper by the Secretariat on administrative arrangements, structure and financial implications of the

International Seabed Authority. The remaining meetings during the second week were allocated to the consultations of the Chairman with the interested delegations on matters related to the establishment of the Finance Committee as well as on the pending articles of the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority and the draft Protocol on the Privileges and Immunities of the International Seabed Authority.

4. In accordance with the above programme of work, the plenary commenced its work with the examination of the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority and completed its second reading. In considering the draft agreement the plenary had before it a revised text of the relationship agreement (LOS/PCN/WP.50/Rev.1) and a working paper prepared by the Secretariat on the sources of those provisions (LOS/PCN/1991/CRP.46).

5. In the second reading the plenary provisionally approved without amendments the third paragraph of the preamble and articles 1; 2; 3, paragraph 1; 4, paragraph 2; 5; 6; 8, paragraph 3; 9, paragraph 2;10, paragraphs 1 and 4; and 19-22.

6. The plenary also adopted as orally amended the first and second paragraphs of the preamble and articles 3, paragraph 2; 8, paragraph 2; 9, paragraph 1; and 12.

7. In approving article 19 on the possible use by the Authority of the United Nations laissez-passer, the plenary took note of the reservations expressed in this regard by the delegation of Japan.

8. The question as to whether reports on the activities of the Authority should be transmitted to the United Nations (article 10, paragraph 3) was the subject of much discussion. It was decided that the Secretariat should study further, in the light of the various opinions expressed during the debate, whether the paragraph should be retained in the text of the draft Agreement.

9. The plenary decided that articles 13 (Relations with specialized agencies and other related organizations), 14 (Administrative cooperation) and 15 (Regional branches, centres and offices) should be deleted from the text of the relationship agreement.

10. The plenary could not reach agreement on articles 4, paragraph 1; 7; 8, paragraph 1; 10, paragraph 2; 11; and 16-18. In order to resolve the remaining difficulties with those articles, the Chairman would consult with interested delegations and then would bring the results to the plenary for its approval.

11. As far as articles 16 (Personnel arrangements), 17 (Budgetary and financial matters) and 18 (Financing of special services) are concerned, it was understood that finalization of their texts would depend on the discussions held with regard to working paper 51.

12. The plenary devoted one meeting to the consideration of the paper on administrative arrangements, structure and financial implications of the International Seabed Authority (LOS/PCN/WP.51). Further discussion of the paper was continued during the session at the level of consultations.

13. In examining the working paper the plenary focused its attention on the the following subjects: guidelines (para. 7); presumed stages of activities of the Authority (para. 9); functions of the Authority during the initial period (para. 14); the so-called "springboard" approach (para. 16); the question of staffing requirements of the Authority (para. 29); and conference-servicing requirements and expenses (para. 52).

14. On the issue of guidelines, the plenary agreed that the structure of the Authority should ensure efficiency and cost-effectiveness and that the Authority should be no larger or smaller than required in order to guarantee the adequate performance by the Authority of its functions at a particular stage of its activities.

15. With reference to the presumed three stages of activities of the Authority referred to in paragraph 9 of working paper 51, the plenary concluded that such an approach should not be interpreted as being detrimental to the institutional structure of the Authority.

16. Having studied the issue of functions of the Authority in the initial period, the plenary agreed that the list of such functions referred to in paragraph 14 of working paper 51 should be further developed in the light of discussions and in particular should be supplemented by the provisions on monitoring the activities of former pioneer investors and on the protection of the environment. The Secretariat was asked to prepare a paper outlining the activities to be performed by the Authority under various functions.

17. With respect to paragraph 16 carrying the rubric "'springboard' approach", it was agreed that the term should be deleted and replaced by the term "evolutionary approach" which better conveys the idea of the gradual development of the activities of the Authority. The plenary reached an understanding that as the activities of the Authority develop every effort should be made to ensure that those activities are carried out in the most effective and cost-efficient manner, while at the same time preserving the institutional structure of the Authority.

18. With regard to the question of professional staff needed by the Authority during the initial period, the plenary concluded that the nature and level of such staff depended on the activities to be performed by the Authority. Therefore, it was decided that the consideration of the question should be postponed until the Secretariat prepared the list of activities of the Authority under various functions (see para. 16 above).

19. In connection with the consideration of the issue of the conference-servicing requirements and costs, the Chairman pointed out that the figures referred to in paragraph 52 of working paper 51 should only be viewed

as an assumption, while at the same time it should be understood that longer and more frequent meetings would involve additional costs. In summarizing the discussion on the issue, the Chairman stated that when any decision on conference-servicing requirements and expenses was being made the following three guidelines should be borne in mind: the provisions of the United Nations Convention on the Law of the Sea should be observed; every effort should be made to make any future arrangements cost-effective to the maximum extent possible; the meetings of the organs of the Authority should be scheduled as regularly as possible to implement effectively the functions assigned to the Authority.

20. The matters related to the Finance Committee were discussed by the plenary at the level of consultations.

21. As decided at the last session, the Secretariat had prepared a revised working paper on the Finance Committee (LOS/PCN/WP.45/Rev.1), reflecting what had been accomplished on this matter in the course of the previous discussions.

22. Consultations confirmed that most of the participants preferred the Finance Committee to be established as a subsidiary organ of both the Assembly and the Council.

23. With regard to the composition of the Finance Committee, it was understood that although the Preparatory Commission would recommend that the Finance Committee be composed of 15 members, the Authority would of course be free to decide otherwise or to change that number at any given time in the future.

24. After quite a lengthy debate on the criteria to be taken into account in the election of the members of the Finance Committee, the Chairman summarized the discussion by saying that there was a general agreement on the first two criteria mentioned in paragraph 2 of working paper 45/Rev.1, and that there appeared to be a need for further discussion with regard to the third criterion relating to the representation of States Parties with the highest contribution to the administrative budget of the Authority.

25. On the question of the programme of work of the plenary on the Authority, it was decided that at the session in Kingston the Chairman would undertake consultations on the pending articles of the relationship agreement with a view to finalizing their text and bringing it to the plenary for approval. The plenary would continue its consideration of the matters related to the administrative arrangements, structure and financial implications of the International Seabed Authority. The plenary would also discuss the pending articles 1 (f) and 21 of the draft Protocol on the Privileges and Immunities of the International Seabed Authority as well as article 55 of the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the Seabed Authority. The Chairman would continue at the session in Kingston his consultations on the Finance Committee and the so-called "hard-core" issues. In accordance with resolution I of the Third United Nations Conference on the Law of the Sea, the

Secretariat will prepare guidelines for the drafting of financial regulations for consideration at the next session.

III. IMPLEMENTATION OF RESOLUTION II

26. In accordance with the decision of the Preparatory Commission, the Group of Technical Experts met from 1 to 5 July 1991 at United Nations Headquarters to consider the application submitted by the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization (IOM) as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea.

27. The General Committee noted that, in accordance with paragraph 4 of the statement of understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1, annex), the Group of Technical Experts had determined that the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor was in confirmity with resolution II of the Third United Nations Conference on the Law of the Sea, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in the above-mentioned statement of understanding.

28. It was noted that in accordance with paragraph 21 of the statement of understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1, annex) "a group of all or several socialist States of Eastern Europe, or a group of State enterprises of such States, shall have the right to apply as pioneer investors in accordance with resolution II for one pioneer area until the United Nations Convention on the Law of the Sea enters into force". The following States - Bulgaria, Byelorussian SSR, Czechoslovakia, German Democratic Republic,* Hungary, Poland, Ukrainian SSR and the USSR - were identified as falling within this category (LOS/PCN/L.41/Rev.1, annex, note a, p. 13). Cuba, which was one of the States submitting the application, was not included in the list. The General Committee decided to recommend to the Preparatory Commission that Cuba be deemed to be included in the list of above-mentioned States.

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* Through accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation of "Germany".

29. The General Committee, having considered the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea, taking into account the report submitted by the Group of Technical Experts, noted with appreciation the conclusions reached by the Group of Technical Experts:

(a) Having examined the technical particulars submitted by the applicant which are summarized in section I of its report (LOS/PCN/BUR/R.8), the Group concluded that the application had been submitted in accordance with resolution II and the understanding contained in document LOS/PCN/L.41/Rev.1, annex;

(b) Having evaluated the technical data and information submitted by the applicant as referred to in section II of its report (LOS/PCN/BUR/R.8), the Group determined that areas A and B are of equal estimated commercial value;

(c) As regards the designation of the reserved area and the allocation of the pioneer area, the Group agreed to recommend for the consideration of the General Committee:

(i) That area A should be designated as the area to be reserved for the Authority;

(ii) That area B, which included an area of 52,300 square kilometres identified by the applicant, should be designated as the pioneer area to be allocated to the applicant.

30. The General Committee met on 21 August 1991 to consider the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea, in the light of the report of the Group of Technical Experts. Having considered the application, the General Committee decided:

(a) To designate area A as the part of the application area which was to be reserved for the conduct of activities by the Authority in the Area through the Enterprise or in association with developing States;

(b) To allocate area B, which included an area of 52,300 square kilometres identified by the applicant, as a pioneer area to the applicant, the Interoceanmetal Joint Organization.

31. At its 63rd meeting the Preparatory Commission, as the General Committee had requested, decided to include Cuba in the list of States having the right to apply as pioneer investors in accordance with resolution II for one pioneer

area until the United Nations Convention on the Law of the Sea enters into force (see para. 28 above).

32. The Chairman of the Preparatory Commission continued his informal consultations on the implementation of the obligation of the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association (COMRA). Although the consultations on the implementation of the obligations of the registered pioneer investor (COMRA) had been completed, it became apparent that more time would be needed to enable the General Committee to adopt the understanding, inasmuch as the matter of similar treatment for future applicants was still pending.

33. The Chairman informed the General Committee that it was his intention to convene meetings of the General Committee to monitor the implementation of the obligations of the registered pioneer investors.

IV. THE TRAINING PANEL

34. The Training Panel met on 19, 20 and 21 August 1991 at United Nations Headquarters and held four meetings on the training schedule. At its first meeting, the Panel adopted its agenda and elected Mr. Baidy Diene (Senegal) as its Coordinator.

35. The Panel was of the opinion that the traineeships should cover the priority disciplines set forth in LOS/PCN/BUR/R.6 that identified five engineering disciplines (chemical/metallurgical, electrical, electronic mechanical and mining) as well as marine geology, marine geophysics and marine ecology.

36. The report of the first meeting of the Training Panel to the General Committee is contained in LOS/PCN/BUR/R.9. The decision of the General Committee on matters relating to the Training Panel is annexed to the present statement.

37. At the 63rd meeting of the Preparatory Commission, Mr. Lennox Ballah in his capacity as Chairman of Special Commission 2, was appointed an ex-officio member of the Training Panel.

V. TENTH SESSION OF THE PREPARATORY COMMISSION

38. In accordance with the decision taken by the Preparatory Commission which stated that "the duration of a given meeting be established at the preceding meeting (LOS/PCN/L.92, para. 36)", the Preparatory Commission decided to hold its tenth session at Kingston for a three-week period from 24 February-13 March 1992. This does not preclude the holding of the usual four-week session at Kingston in spring 1993 if the Preparatory Commission so decides. It was also decided that the Training Panel will meet simultaneously with the meeting of the Preparatory Commission.

Annex

DECISION ADOPTED ON 29 AUGUST 1991 BY THE GENERAL COMMITTEE ON MATTERS RELATING TO THE TRAINING PANEL

1. The Training Panel will meet simultaneously with the meeting of the Preparatory Commission which will be held at Kingston from 24 February to 13 March 1992.

2. The Panel will be provided with the training programmes which will be resubmitted by Japan and the Union of Soviet Socialist Republics, and the training programme to be submitted by India, for its consideration.

3. The Preparatory Commission requests that the pioneer investors India, Japan and the USSR make all efforts to present their programmes during the course of 1991.

4. The Panel will develop specific criteria for the selection of candidates and standard forms for applications.

5. In the case of the training programme submitted by France, the commencement date specified in its programme will be maintained, provided that the applications of the candidates are presented in due form to allow for the proper processing of the applications.

6. A note verbale will be sent by the Secretary-General covering all programmes that have been approved immediately after the meeting of the Training Panel to be held during the tenth session of the Preparatory Commission at Kingston.

7. Nominations submitted in response to the note verbale should be presented by 15 June 1992.